REMARKS/ARGUMENTS

Claims 1-2, 4-10, 12-18, 20-23, and 25-31 are pending. Claim 1 has been amended. No claims have been canceled, added, or withdrawn. In view of the following remarks, withdrawal of the outstanding rejections to the pending claims is respectfully requested.

Claim Amendments

The preamble of claim 1 was amended to more particularly show that the operations of claim 1 are implemented by a computer. More particularly, the preamble was changed from "A method [...]" to "A computer-implemented method [...]".

35 U.S.C §102(e) Rejections

Claims 1, 2, 4-10, 12-18, 20-23, and 25-31 stand rejected under 35 U.S.C §102(e) over U.S. Patent No. 6,698,018 to Zimniewicz et al ("Zimniewicz"). This rejection is traversed.

Claim 1 recites in part "upon successfully operating the device and providing external communications using the new essential software, selectively downloading new non-essential software and storing the new non-essential software in memory by overwriting at least a portion of either the essential software or the non-essential software." The Action asserts that these features are described by Zimniewicz's disclosure at column 10, lines 35-40 and 50-55. Applicant respectfully disagrees.

These cited portions of Zimniewicz merely indicate that after baseline requirements have been installed, installation continues "to completely customize

the component or suite installation" (column 10, lines 35-42). In another example, column 10, lines 50-55 merely indicates that the user can install the scenario baseline components and continue installation, click cancel to exit, or select a different installation scenario. Thus, these cited portions of Zimniewicz describe precursor conditions and options for a complete component or suite installation; the precursor conditions being that the baseline components are installed before installation can complete. Clearly, this description of Zimniewicz, and Zimniewicz as a whole, his completely silent with respect to any teaching that describes **executing the installed baseline components** (at this point) **to operate the device and provide external communications**, and **then using success or failure results of those device operation and communications to determine whether to download new-non baseline components for subsequent installation**. Thus, the system of Zimniewicz may never "upon successfully operating the device and providing external communications using the new essential software, selectively downloading new non-essential software and storing the new non-essential software in memory by overwriting at least a portion of either the essential software or the non-essential software", as claim 1 recites.

Since Zimniewicz does not describe each and every element of claim 1, as set forth by claim 1, Zimniewicz cannot anticipate claim 1. Accordingly, withdrawal of the 35 USC §102(e) rejection of claim 1 is respectfully requested.

Claims 2, 4-8, and 28 depend from claim 1 and are allowable over Zimniewicz at least by virtue of this dependency. Accordingly, withdrawal of the 35 USC §102(e) rejections of claims 2, 4-8, and 28 is respectfully requested.

Claim 9 recites "identifying essential software within a device, the essential software including software necessary to operate the device and provide

external communications", "identifying remaining portions of software within the device as non-essential software", "downloading new essential software from an external source to the device and storing the new essential software in memory by overwriting at least a portion of the non-essential software", and "upon successfully operating the device and providing external communications using the new essential software, selectively downloading new non-essential software and storing the new non-essential software in memory by overwriting at least a portion of either the essential software or the non-essential software." For the reasons are discussed above with respect to claim 1, Zimniewicz does not anticipate these claimed features.

Accordingly, withdrawal of the 35 USC §102(e) rejection of claim 9 is respectfully requested.

Claims 10, 12-16, and 29 depend from claim 9 and are allowable over Zimniewicz at least by virtue of this dependency. Accordingly, withdrawal of the 35 USC §102(e) rejection of claims 10, 12-16, and 29 is respectfully requested.

Claim 17 recites "identify as essential software that software which is necessary to operate the apparatus and provide for external communications", "identify remaining portions of software as being non-essential software", "download new essential software from an external source and store the new essential software in memory by overwriting at least a portion of the non-essential software", and "upon successfully operating and providing external communications using the new essential software, selectively download new non-essential software and store the new non-essential software in the memory by overwriting at least a portion of either the essential software or the non-essential

software." For the reasons are discussed above with respect to claim 1, Zimniewicz does not anticipate these features of claim 17.

Accordingly, withdrawal of the 35 USC §102(e) rejection of claim 17 is respectfully requested.

Claims 18, 20-21, and 30 depend from claim 17 and are allowable over Zimniewicz at least by virtue of this dependency. Accordingly, withdrawal of the 35 USC §102(e) rejection of claims 18, 20-21, and 30 is respectfully requested.

Claim 22 recites in part: "upon successfully operating and providing external communications using the new essential software, is further configured to selectively download new non-essential software and store the new non-essential software in the memory by overwriting at least a portion of either the essential software or the non-essential software." For the reasons discussed above with respect to claim 1, Zimniewicz does not anticipate these features of claim 22.

Accordingly, withdrawal of the 35 USC §102(e) rejection of claim 22 is respectfully requested.

Claims 23, 25-27, and 31 depend from claim 22 and are allowable over Zimniewicz at least by virtue of this dependency. Accordingly, withdrawal of the 35 USC §102(e) rejection of claims 23, 25-27, and 31 is respectfully requested.

Conclusion

The pending claims are in condition for allowance and action to that end is urgently requested. Should any issue remain that prevents allowance of the application, the Office is encouraged to contact the undersigned prior to issuance of any subsequent action.

Respectfully Submitted,

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